

1  
2  
3  
4  
5  
6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 v.

11 HUMBERTO JOSE GARCIA,

12 Defendant.

Case No. CR20-197 RAJ

ORDER

13  
14 This matter is before the Court on Mr. Garcia's pro se motion for pretrial release  
15 reconsideration and supplemental motion in support of his motion provided by counsel. (Dkt. ##  
16 113, 123.) The government opposes Mr. Garcia's motion. (Dkt. # 128.) For the reasons discussed  
17 below, the Court DENIES Mr. Garcia's motion.

18 Mr. Garcia is charged with Conspiracy to Distribute Controlled Substances in violation of  
19 21 U.S.C. §§ 841(a)(1) and 846. On December 8, 2020, the Court held a detention hearing. The  
20 Court found there is a rebuttable presumption of detention pursuant to 18 U.S.C. § 3142(e). The  
21 Court also found Mr. Garcia poses a risk of nonappearance due to his history of failures to  
22 appear, a prior conviction for bail jumping, pending charges, noncompliance on supervision,  
23 history of substance abuse, and history of international travel. The Court further found Mr.

1 Garcia poses a risk of danger due to the charged offense, criminal activity while on supervision,  
2 pending charges, and history of substance abuse. The Court found the record did not rebut the  
3 presumption and ordered Mr. Garcia detained and remanded to custody.

4 Mr. Garcia has now provided declarations from his college associate dean and his  
5 girlfriend in support of his motion. (Dkt. ## 99, 100.) Mr. Garcia also argues that although he has  
6 past drug convictions, he has changed with age and is trying to better himself. Because of this  
7 change, he asserts he is no longer a threat to the community. He also provides information  
8 regarding an intercepted call. In the call, Mr. Garcia agreed to find a co-defendant a gun. During  
9 the call, it appears Mr. Garcia asked the co-defendant if he was going to shoot someone in the  
10 leg. Mr. Garcia alleges he was “clearly trying to talk down this situation.”

11 In its opposition, the government argues Mr. Garcia’s motion is not based on new  
12 information or changed circumstances. It notes Mr. Garcia’s recent conduct regarding this case,  
13 including the intercepted call, undermines his assertion that he has changed. It also notes, *inter*  
14 *alia*, that Mr. Garcia had only been released from his last prison term for a few months and was  
15 on probation before entering into the instant alleged conspiracy.

16 Here, the Court is cognizant that Mr. Garcia has been detained since December 2020 and  
17 that trial is currently set for October 2021. However, the letters of support and explanation about  
18 the intercepted call do not persuade the Court that release, even with conditions, is warranted.  
19 First, while Mr. Garcia’s explanation that he was trying to diffuse the situation during the  
20 intercepted call may give the Court more context, his explanation does not amount to new  
21 information and does not alleviate the Court’s concern that he poses a risk of danger to the  
22 community. Similarly, the letters of support do not alleviate the Court’s concern considering the  
23 nature of the instant offense. Second, Mr. Garcia’s assertions that he has changed with age are

1 unpersuasive given the allegations of his conduct before his arrest. For these reasons, and the  
2 reasons previously stated on the record, the Court finds that taken as a whole, the record does not  
3 effectively rebut the presumption that no condition or combination of conditions will reasonably  
4 assure the appearance of the Mr. Garcia as required and the safety of the community. Mr. Garcia's  
5 motion is DENIED.

6 The Clerk is directed to send copies of this order to the parties and to the Honorable  
7 Richard A. Jones.

8 Dated this 6th day of May, 2021.

9  
10 

11 MICHELLE L. PETERSON  
12 United States Magistrate Judge  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23